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December 15, 1998

PATENT APPLICATION  
Docket No.: TEX98-01  
via **HAND DELIVERY**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: David M. Mayes  
Application No.: 08/777,228 Group: 2506  
Filed: December 30, 1996 Examiner:  
For: SHORT WAVE-NEAR INFRARED (SW-NIR) ANALYSIS SYSTEM  
AND METHOD

PETITION TO REVIVE UNINTENTIONALLY ABANDONED  
APPLICATION UNDER 37 C.F.R. §1.137(b)

Box DAC

Assistant Commissioner for Patents

Washington, D.C. 20231

Sir:

Petitioner respectfully requests that the above-identified application be revived pursuant to 37 C.F.R. §1.137(b) for the purpose of maintaining co-pendency with a later-filed continuation application.

1. On February 6, 1998, Applicant filed a continuation-in-part application, Serial No. 09/019,667 with the intent of claiming the benefit of this application (i.e., the above-captioned application Serial No. 08/777,228 filed December 30, 1996). The intent to so claim this benefit is quite apparent from the papers of the continuation application as filed, including:
  - (a) the Utility Application Transmittal Letter dated February 6, 1998;
  - (b) the "Related Application" section of the first page of the specification filed February 6, 1998; and
  - (c) the inventor's Declaration filed June 17, 1998.

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Copies of these documents from the continuation-in-part application are enclosed for reference.

2. A petition with the requisite fee for a two-month extension of time was intended to be submitted by the Applicant at the time of filing the continuation application, but was omitted due to oversight.
3. In response to a request for status on December 11, 1998, Petitioner's undersigned attorney was caused to review the file, leading to the realization that, for the first time, a Two-Month Petition for Extension of Time and corresponding fee were omitted in the parent application at the time of filing the continuation-in-part application.
4. Thus, to date, the entire delay in filing the required reply (in this case, a Petition for a Two-Month Extension of Time with the appropriate fee) was unintentional.
5. Pursuant to 37 C.F.R. §1.137(b), this Petition is being filed with the required fee authorization.

Acceptance of the foregoing statement that the entire delay was unintentional is respectfully requested so that co-pendency is afforded to continuation-in-part application Serial No. 09/019,667.

Authorization is hereby given to charge Deposit Account No. 08-0380 in the amount of \$1,210.00 to cover the petition fee.

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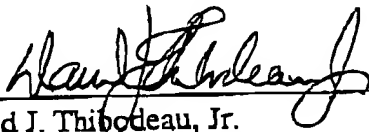
TEX98-01

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Although it is believed that no petition for additional time to respond is required, please consider this paper as a Petition for any necessary for the extensions of time and please charge any other fees that may be due in this matter to Attorneys Deposit Account No. 08-0380. A copy of this letter is enclosed for accounting purposes.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By 

David J. Thibodeau, Jr.

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Date: December 15, 1998